

### ***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-3, 5-26 and 28-52 are pending in the application, with claims 1 and 24 being the independent claims. Claims 1, 15, 16, 18, 19, 22-24, 28, 36-39, 41, 42 and 45-50 have been amended to more clearly point out and distinctly claim the subject matter of the present invention. Claims 51 and 52 are newly added. Descriptive support for the amendments is found in the specification as filed. The amendments introduce no new matter and their entry is respectfully requested.

Claims 1, 2, 14, 15, 18, 21, 24, 25<sup>1</sup>, 36-38, 41 and 44-50 stand rejected under 35 U.S.C. § 102(e) as being clearly anticipated by U.S. Patent No. 6,170,060 to Mott, *et al.* ("Mott")<sup>2</sup>. Claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mott in view of U.S. Patent No. 5,726,909 to Krikorian ("Krikorian"). Claims 3 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mott in view of U.S. Patent No. 6,587,127 to Leeke, *et al.* ("Leeke").

Based on the above amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and they be withdrawn.

**I. *Claims 1, 2, 14, 15, 18, 21, 24, 25, 36-38, 41 and 44-50 are Patentable over Mott***

Claims 1, 2, 14, 15, 18, 21, 24, 25, 36-38, 41 and 44-50 stand rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Mott. For the following reasons, this rejection is respectfully traversed as Mott fails to disclose or suggest each of the recitations of the claims of the present invention.

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<sup>1</sup> Page 2 of the Office Action does not indicate that claim 25 is rejected under 35 U.S.C. § 102(e) to Mott. However, the Office Action does state on page 3 that claim 25 is rejected over Mott.

<sup>2</sup> Page 2 of the Office Action indicates that claims 1, 2, 14, 15, 18, 21, 24, 36-38, 41 and 44-50 are rejected over Mott but the explanations of the rejections on pages 2-5 reference Krikorian. The citations provided by the Examiner, however, match the Mott reference. Accordingly, the Applicants are treating the references to Krikorian for the rejections of claims 1, 2, 14, 15, 18, 21, 24, 36-38, 41 and 44-50 as erroneous.

As discussed in the Applicants' previous responses, the present invention allows a franchise owner to remotely manage media including, but not limited to, background music, video or announcements in stores (where playback control devices are located) without needing to travel to the stores or have on-site personnel who can manage the media. (*See, e.g.*, Specification at p.11, line 21 to p.12, line 3.) These objects of the invention are accomplished by connecting at least one computer, at least one web server and at least one playback device (located in a store) to a distributed communications network such as the Internet. (*See, e.g.*, Figure 2.) A user (*i.e.*, a franchise owner) may then create or modify a continuous play program by accessing the web server using the computer. (*See, e.g.*, Specification at p.11, lines 9-15.) The web server may then update the playback of the continuous play program on the playback devices over the Internet. (*See, e.g.*, Specification at p.11, lines 9-15.)

In contrast, the invention disclosed by Mott is intended "to provide a means by which a consumer may browse, preview, select, purchase, and take delivery of selected digital information content from [a] digital information library server 260 across distribution network 240." (Mott at col.10, line 65 to col.11, line 2.) Mott accomplishes this goal by providing a client computer system 214 and a library site 250 which are connected via a distribution network. (*See* Mott at Figure 2.) The library site "receives requests for access to [ ] digital information files 262 from client computer systems 214 over network 240 and manages purchase and delivery of the selected digital information files." (Mott at col.8, ll.2-8.) Upon receipt of a request from the client site, "the library server 260 accesses the digital information program file(s) . . . requested by the client computer system 214 . . . and transfers the encrypted and compressed digital information file(s) to the requesting client computer system 241 via network 240." (Mott at col.8, ll.26-34.)

Additionally, Mott discloses that the client computer system may be "removably coupled" to a standalone playback device. (*See* Mott at col.5, ll.15-31.) "The mobile playback device 212 includes an interface to the client computer system 214 through which the mobile playback device 212 receives compressed digital information files 216, software updates, and configuration changes from client computer system 214." (Mott at col.10, ll.53-58.) Once media

files are transferred from the client computer system 214 to the mobile playback device 212, “the mobile playback device 212 may be detached from the client computer system 214 and used as a standalone digital information playback device.” (Mott at col.5, ll.23-26.)

Mott fails to disclose that the mobile playback device 212 is “connected to [a] distributed communications system,” as recited by independent claims 1 and 24 of the present invention. While Mott discloses that the mobile playback device 212 may be connected to the client computer system 214, and that the client computer system 214 may be connected to the distribution network 240, Mott fails to disclose that the mobile playback device 212 itself is connected to the distribution network 240. Rather, as discussed above, the mobile playback device “includes an interface to the client computer system 214 through which the mobile playback device 212 receives compressed digital information files 216, software updates, and configuration changes from client computer system 216.” (Mott at col.10, ll.53-58.) As such, the mobile playback device is not connected to the distribution network but rather the client computer system, and thus does not meet the “playback control device” recitations in the independent claims of the present invention.

Additionally, Mott fails to disclose that the client computer system 214 is “remotely located” from the location of the mobile playback device 212, as recited by independent claims 1 and 24 of the present invention. Rather, Mott discloses that the mobile playback device 212 is physically connected to the client computer system 214 while digital information files 216, software updates and configuration changes are transferred to the mobile playback device. (Mott at col.10, ll.53-58.) As one of ordinary skill in the art will realize, two devices which are physically connected are not “remotely located” from one another.

Because Mott fails to disclose or suggest each of the recitations of the independent claims discussed above, claims 1 and 24 are allowable over Mott. Claims 2, 14, 15, 18, 21, 25, 36-38, 41 and 44-50 each depend from either claim 1 or claim 24, and are allowable for at least the same reasons. Therefore, the Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 2, 14, 15, 18, 21, 24, 25, 36-38, 41 and 44-50.

**II. *Claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 are Patentable over Mott in view of Krikorian***

Claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mott in view of Krikorian. For the following reasons, this rejection is respectfully traversed as Mott and Krikorian, taken alone or together, fail to disclose or suggest each of the recitations of the claims of the present invention.

As discussed above, Mott fails to disclose each of the recitations of the independent claims 1 and 24. Krikorian fails to cure the deficiencies of Mott. Rather, Krikorian discloses a continuous play broadcast system that includes a central computer and multiple end user computers. (See Krikorian at col.3, line 4.) As such, and similar to Mott, Krikorian fails to disclose a playback control device, a computer and a web server which are each connected to, or capable of communicating with, a distributed communications system.

Claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 each depend from either independent claim 1 or independent claim 24. Because Mott fails to disclose or suggest each of the recitations of the independent claims discussed above, and because Krikorian fails to cure the deficiencies of Mott, claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46 are therefore allowable over Mott and Krikorian, taken alone or together, for at least the same reasons. Therefore, the Applicants respectfully request that the Examiner withdraw the rejection of claims 5-13, 16, 17, 19, 20, 22, 23, 28-35, 39, 40, 42, 43 and 46.

**III. *Claims 3 and 6 are Patentable over Mott in view of Leeke***

Claims 3 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mott in view of Leeke. For the following reasons, this rejection is respectfully traversed as Mott and Leeke, taken alone or together, fail to disclose or suggest each of the recitations of the claims of the present invention.

As discussed above, Mott fails to disclose each of the recitations of the independent claims 1 and 24. Leeke fails to cure the deficiencies of Mott. Rather, Leeke discloses a system for providing audio content between a server and a plurality of client computers. (See Leeke at

col.4, ll.7-20.) As such, and similar to Mott, Leeke fails to disclose a playback control device, a computer and a web server which are each connected to, or capable of communicating with, a distributed communications system.

Claims 3 and 6 each depend from independent claim 1. Because Mott fails to disclose or suggest each of the recitations of the independent claims discussed above, and because Leeke fails to cure the deficiencies of Mott, claims 3 and 6 are therefore allowable over Mott and Leeke, taken alone or together, for at least the same reasons. Therefore, the Applicants respectfully request that the Examiner withdraw the rejection of claims 3 and 6.

#### ***IV. Newly Added Claims 51 and 52 are Patentable over the Cited References***

Newly added claims 51 and 52 depend from either independent claim 1 or independent claim 24.

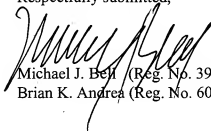
As discussed above, the cited references, taken alone or together, fail to disclose each of the recitations of the independent claims 1 and 24. Therefore, the Applicants respectfully assert that claims 51 and 52 are allowable over the cited references for at least the same reasons.

### ***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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